

Scripting Software License Agreement

Revised December 2024

NOTICE TO USER

PLEASE READ THIS DOCUMENT CAREFULLY. THIS IS THE CONTRACT BETWEEN YOU AND FEI COMPANY REGARDING THE SCRIPTING SOFTWARE. THIS AGREEMENT CONTAINS WARRANTY AND LIABILITY DISCLAIMERS AND LIMITATIONS. YOUR INSTALLATION AND USE OF THIS SOFTWARE IS SUBJECT TO THE TERMS AND CONDITIONS (AS THE SAME MAY BE AMENDED VIA UPDATES OR UPGRADES TO THE SOFTWARE) CONTAINED IN THIS SCRIPTING SOFTWARE LICENSE AGREEMENT, AND YOU WILL BE BOUND BY THESE TERMS AND CONDITIONS IF YOU USE THE SOFTWARE.

IF YOU DO NOT AGREE TO THESE TERMS AND CONDITIONS, DO NOT USE THE SOFTWARE.

“Software” means the TEM Scripting, Advanced TEM Scripting, TEM Autostar, AutoScript, iFast, Metrology Studio Scripting or any software released by FEI Company (“Company”) designated as a scripting software program in its product description or containing scripting capability, including any updates and parts thereof, whether expressed in object code, source code or otherwise. Software is copyrighted, and Company (or its suppliers) retains exclusive right, title and interest in and to the Software and all copies or portions thereof, including all intellectual property rights. The Software may use third-party software components from several sources. Portions of these software components are copyrighted and licensed by their respective owners.

Various components may be licensed under third-party licenses that require distribution of source code or if a URL is used to point the end-user to a source-code repository, and the source code is not available at such site, the distributor must, for a time determined by the license, offer to provide the source code. In such cases, please contact your Company representative. In order to use this Software, the Customer must, and hereby agrees to, abide by the terms and conditions of these third-party licenses.

Subject to the payment of all fees due hereunder, Company hereby grants Customer a nonexclusive, nontransferable, non-sublicensable license to use the Software on the system on which it is originally installed (the “Initial System”) to generate or develop scripts or programs for internal purposes and not for distribution or resale or to integrate products not manufactured by Company with the Initial System, in any case on a commercial or non-commercial basis, subject to the provisions of this license. If the Customer has purchased a Product Integration License, Company hereby grants Customer an additional nonexclusive, nontransferable, non-sublicensable license to use the Software on the Initial System to generate or develop scripts or programs solely for the purpose of integrating products not manufactured by Company into the Initial System, subject to the provisions of this license. As a condition to the license of the Software, Customer hereby grants to Company a royalty-free, worldwide, transferable, sublicensable, perpetual license to such scripts or programs.

The term of the license is set forth in the applicable Company quotation for the purchase of the software license, and if no specific term is stated in the quotation, then the license is perpetual. If this license is granted on a trial or subscription basis, Customer is hereby notified that license management software may be included to automatically cause the Software to cease functioning at the end of the trial or subscription period (and in any case Customer agrees to discontinue usage at the end of the trial or subscription period).

Customer understands that certain scripts or programs may adversely impact instrument or software performance and Customer takes full responsibility for any script or program it creates using the Software. Company does not warrant that (i) the Software, scripts, or programs will meet Customer’s requirements, (ii) the Software, scripts, or programs will operate in combination with other hardware, software, systems or data not provided by Company (except as expressly specified in the documentation provided with the Software by Company), (iii) the operation of the Software, scripts, or programs will be uninterrupted or error-free, or (iv) all Software errors will be corrected. THE WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES OR CONDITIONS, EXPRESS, IMPLIED OR STATUTORY, WITH RESPECT TO THE SOFTWARE. NO WARRANTIES SHALL ARISE UNDER THIS AGREEMENT FROM COURSE OF DEALING, COURSE OF PERFORMANCE OR USAGE OF TRADE. COMPANY EXPRESSLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT AND FITNESS FOR ANY PARTICULAR PURPOSE.

The Software and documentation and any copies, translations, compilations, partial copies, modifications, improvements, enhancements and updates are proprietary to Company or its licensors, and contain copyrighted material, trade secrets and other proprietary material. In order to protect such intellectual property rights and preserve the confidentiality of the Software, Customer may not decompile, reverse engineer, disassemble or otherwise reduce the Software to a human-perceivable form, except to the extent expressly permitted by mandatory provisions of applicable law (including national laws implementing Directive 91/250/EEC on the legal protection of computer programs) in order to gain certain information specified therein, provided that Customer shall not exercise its rights under such laws, unless and until Customer has first requested the required information from Company in writing, and Company, at its sole discretion, has not complied with Customer's request within a commercially reasonable period of time. Customer may not modify, network, rent, lease, loan, distribute or create derivative works (other than the scripts or programs) based upon the Software, in whole or in part. Customer shall not remove any proprietary notices from any part of the Software or documentation. Licensors of third-party software that may be included in the Software have all the rights and benefits of Company under this license to the extent required by their license to Company, and, to the extent permitted by applicable law, shall have no liability for any damages, whether direct, indirect, incidental or consequential, arising from the use of such third-party software. Except as explicitly set forth in the Company quotation relating to this Software, Customer shall not make Software or any script or programs available in any form to any third party without the prior written consent of Company, which consent may be contingent upon the payment of a transfer fee for the Software, script or programs; provided that in the event Customer has purchased a Product Integration License it may allow the manufacturer of the product to be integrated with the Initial System to use the Software or any script or programs, subject to the terms of this license, for the limited purpose of completing the integration of their product into the Initial System and for no other purposes. In the event that Customer fails to comply with this license, Company may terminate the license and Customer must destroy all copies of the Software and any related scripts. All other rights of both parties and all other provisions of this license will survive such termination

Customer acknowledges and agrees that any ideas, enhancements, modifications, and the like disclosed by Customer to Company with respect to the Software ("Software Improvements and Feedback") will be the property of Company. Customer agrees to assign, and hereby assigns, all right, title, and interest worldwide in the Software Improvements and Feedback to Company and agrees to assist Company, at Company's expense, in perfecting and enforcing Company's rights thereto and ownership thereof. Customer acknowledges and agrees that Company and its affiliates may use such Software Improvements and Feedback for its business purposes without restriction.

At Company's written request, but not more frequently than once annually, Customer shall certify to Company in a writing signed by Customer's authorized representative its compliance with the terms of this license, and listing (i) the number of people to whom Customer provides access to the Software, and (ii) the locations and types of the systems on which it operates or has installed the Software and scripts or programs it has created using the Software. Company reserves the right to audit Customer's use of the Software no more than once annually at Company's expense, provided that Company may audit more frequently upon its reasonable suspicion of a violation of this license agreement. Company shall schedule any audit at least fifteen (15) days in advance. Any such audit shall be conducted during regular business hours at Customer's facilities and shall not unreasonably interfere with Customer's business activities. If such audit reveals that Customer has underpaid fees to Company, Customer shall promptly pay to Company such fees at the prices previously agreed to for such Software and, if the underpayment is greater than ten percent (10%), Customer shall reimburse Company for its reasonable costs of audit. Customer shall allow Company, or its agents, access to Customer's facilities, including its computing equipment and books and records, during normal business hours for the purpose of determining Customer's compliance with this license.

IN NO EVENT SHALL COMPANY OR ITS SUPPLIERS BE LIABLE FOR SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES OR LOSSES ALTHOUGH COMPANY MAY BE INFORMED OF THE POSSIBILITY OF SUCH DAMAGES IN ADVANCE. EXCEPT AS EXPRESSLY PROVIDED HEREIN, COMPANY DISCLAIMS ALL OTHER LIABILITY TO BUYER OR ANY OTHER PERSON IN CONNECTION WITH THIS LICENSE OR THE DELIVERY OR NON-DELIVERY, SALE, MAINTENANCE, USE OR PERFORMANCE OF PRODUCT, INCLUDING SPECIFICALLY, BUT WITHOUT LIMITATION, LIABILITY FOR NEGLIGENCE OR STRICT LIABILITY IN TORT. NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, IN NO EVENT SHALL COMPANY'S OR COMPANY'S SUPPLIERS' LIABILITY UNDER THIS AGREEMENT EXCEED THE PURCHASE PRICE PAID FOR THE SOFTWARE BY BUYER. BUYER ACKNOWLEDGES THAT THE PRICING OF THE PRODUCT AND THE OTHER TERMS AND CONDITIONS OF THIS AGREEMENT REFLECT THE ALLOCATION OF RISK SET FORTH

IN THIS AGREEMENT AND THAT COMPANY WOULD NOT ENTER INTO THIS AGREEMENT WITHOUT THESE LIMITATIONS OF ITS LIABILITY.

The Software and documentation are provided with Restricted Rights. Use, duplication, or disclosure by the Government is subject to restrictions as set forth in this License and in DFARS 227.7202-3 or FAR 52.227-19, as applicable. Manufacturer is FEI Company, 5350 NE Dawson Creek Drive, Hillsboro OR 97124. The Software is a "commercial item," as that term is defined in 48 C.F.R. 2.101 (Oct. 1995), consisting of "commercial computer software" and "commercial computer software documentation," as such terms are used in 48 C.F.R. 12.212 (Sept. 1995). Consistent with 48 C.F.R. 12.212 and 48 C.F.R. 227.7202-1 through 227.7202-4 (June 1995), all U.S. Government End Users acquire the Software with only those rights set forth herein.

Customer acknowledges that the provision by Company of products (including components and spare parts), software, services (including warranty services), technology or intellectual property, including technical information supplied by Company or contained in documents (collectively Items), is subject to applicable export controls of the U.S. government and other jurisdictions, including but not limited to the European Union. These controls may require Company or Customer to first obtain a license (or similar requirement) from the relevant authority, or regulatory body. Company shall not be liable to Customer for any delay or failure to obtain the necessary licenses or approvals. Customer shall comply with all applicable export laws and regulations. Customer shall not, without first obtaining from the relevant authority or regulatory body any license required to do so lawfully, export or re-export any Item (either directly or indirectly), to: (i) any restricted or embargoed country or any person or organization whose privilege to participate in exports has been denied or restricted by the applicable authority; or (ii) any person or organization who is involved in improper development or use of nuclear weapons, or of chemical/biological weapons (CBW) or missiles, or in terrorist activities. Customer agrees not to use any supplied Item in restricted or prohibited activities such as nuclear explosives, unsafeguarded nuclear activities, chemical or biological weapons development, restricted rocket systems, or military purposes. Customer will, on request (i) promptly provide written information correctly identifying the end user and end use of any Items (including any information as it may relate to a subsequent transfer of such Items by Customer); and (ii) cooperate fully with Company in any official or unofficial audit or inspection arising in respect of the Items under applicable export or import control laws or regulations. Customer will ensure that the customers and end users to whom Customer re-sells or transfers the Items agree in writing to the provisions of this Section and Customer covenants to use its best efforts to enforce such provisions against customers and end users. Customer shall indemnify and hold Company harmless from, or in connection with, any violation of this Section by Customer or its employees, consultants, agents and/or representatives. In addition, failure of Customer to comply with this clause shall be a material breach of this software license agreement and shall entitle Company to immediately terminate this software license agreement. Company shall be entitled to terminate this software license agreement without prior notice if such termination is necessary in order to comply with applicable export laws and regulations.

This software license agreement shall be governed by laws of the Commonwealth of Massachusetts, exclusive of its conflict of laws provisions. This software license agreement shall not be governed by the United Nations Convention on Contracts for the International Sale of Goods. This software license agreement contains the complete agreement between the parties with respect to the subject matter hereof, and supersedes all prior or contemporaneous agreements or understandings, whether oral or written. If any provision of this software license agreement is held by a court of competent jurisdiction to be contrary to law, that provision will be enforced to the maximum extent permissible and the remaining provisions of this software license Agreement will remain in full force and effect. The controlling language of this software license agreement, and any proceedings relating to this software license agreement, shall be English. Customer agrees to bear any and all costs of translation, if necessary. All questions concerning this Agreement shall be directed to: Thermo Fisher Scientific, 168 Third Avenue Waltham MA. Attention: Legal Department.